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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/555,753

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Mauro Barbieri

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

MONIKANG, GEORGE C

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/555,753

Applicant(s)

BARBIERI ET AL.

Examiner

George C. Monikang

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/555,753.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/4/2005</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 & 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Eid et al, US Patent 7,206,413 B2.

3. Re Claim 1, Eid et al discloses a method of controlling the audio output of a first and at least one second device capable of producing sound, which devices (1a, 1b, . . . ) are capable of exchanging information with a control unit (3) (fig. 2: 212 & 216; col. 6, lines 17-20), the method comprising the steps of: the control unit gathering sound status information (I) on at least the second devices (fig. 2: 216 & 264; col. 6, lines 17-20); the first device, prior to increasing its sound production, submitting a sound production request (R) to the control unit (fig. 2: 212 & 264; col. 6, lines 17-20); the control unit, in response to the request, allocating a sound share (S) to the first device (fig. 2: 212; col. 4, lines 46-65); and the first device producing sound in accordance with the allocated sound share (abstract), wherein the sound status information (I) comprises the volume of the sound produced by the respective device (fig. 2: 212 & 264; col. 6, lines 17-20),

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and wherein the sound share (S) involves a maximum permitted sound volume (col. 6, lines 17-20).

4. Re Claim 2, Eid et al discloses the method according to claim 1, wherein the sound status information further comprises at least one of an ambient noise level (col. 6, lines 27-30), at least one user profile (col. 7, lines 50-52) and a frequency range (col. 11, lines 4-9).

5. Re Claim 3, Eid et al discloses the method according to claim 1, wherein the sound share further involves at least one of a time duration (col. 2, lines 44-47) and a frequency range (col. 11, lines 4-9).

6. Re Claim 8, Eid et al discloses the method according to claim 1, wherein user preferences are entered in the control unit (3) via a user interface (col. 7, lines 50-52).

7. Claim 9 has been analyzed and rejected according to claim 1.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 4 & 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eid et al, US Patent 7,206,413 B2 as applied to claim 1 above, in view of Kanevsky et al, US Patent Pub. 2003/0002688 A1.

11. Re Claim 4, Eid discloses the method according to claim 1, but fails to disclose wherein the first device uses an alternative output when the allocated sound share is insufficient, the alternative output preferably involving vibrations and/or light. However, Kanevsky et al does (para 0022).

12. Taking the combined teachings of Eid et al and Kanevsky et al as a whole, one skilled in the art would have found it obvious to modify the method according to Eid et al with wherein the first device uses an alternative output when the allocated sound share is insufficient, the alternative output preferably involving vibrations and/or light as taught in Kanevsky et al (para 0022) so that the user can be informed when the sound passes the preset level.

13. Re Claim 10, the combined teachings of Eid et al and Kanevsky et al discloses a control unit (3) for use in the method according to claim 4, the control unit comprising a processor (31), a memory (32) associated with the processor and a network adapter (33), wherein the processor is programmed for allocating sound shares (S) to devices in response to sound requests (Kanevsky et al, para 0022).

14. Re Claim 11, the combined teachings of Eid et al and Kanevsky et al discloses the control unit according to claim 10, wherein the processor is additionally programmed

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for maintaining a device status table (51) and a user profiles table (52), and a sound shares allocation table (53) (Kanevsky et al, para 0022).

15. Claims 12-13 have been analyzed and rejected according to claim 10.

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eid et al, US Patent 7,206,413 B2 as applied to claim 1 above, in view of Gierse, US Patent Pub. 2004/0028245 A1.

17. Re Claim 5, Eid et al discloses the method according to claim 1, but fails to disclose wherein at least one device may have a priority status, and wherein an allocated sound share may be adjusted in response to a sound request from a device having priority status. However, Gierse does (para 0039).

18. Taking the combined teachings of Eid et al and Gierse as a whole, one skilled in the art would have found it obvious to modify the method according to Eid et al with wherein at least one device may have a priority status, and wherein an allocated sound share may be adjusted in response to a sound request from a device having priority status as taught in Gierse (para 0039) so the user can hear important and valuable information such as a navigational instructions.

19. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eid et al, US Patent 7,206,413 B2 as applied to claim 1 above, in view of Seitz et al, US Patent 6,404,891 B1.

20. Re Claim 6, Eid et al discloses the method according to claim 1, but fails to disclose wherein the devices are connected by a communications network, preferably a wireless communications network. However, Seitz et al does (col. 2, lines 1-3).

21. Taking the combined teachings of Eid et al and Seitz et al as a whole, one skilled in the art would have found it obvious to modify the method according to Eid et al with wherein the devices are connected by a communications network, preferably a wireless communications network as taught in Seitz et al (col. 2, lines 1-3) so that the audio systems can be connected without a plurality of cables.

22. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eid et al, US Patent 7,206,413 B2 as applied to claim 1 above, in view of Alexander et al, US Patent 6,980,056 B1.

23. Re Claim 7, Eid et al discloses the method according to claim 1, but fails to disclose wherein each device is provided with an individual control unit. However, Alexander et al does (col. 11, lines 34-47).

24. Taking the combined teachings of Eid et al and Alexander et al as a whole, one skilled in the art would have found it obvious to modify the method according to Eid et al with each device is provided with an individual control unit as taught in Alexander et al (col. 11, lines 34-47) for easier separate control of the audio sources gain.

### **Contact**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F, alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

11/8/2007

  
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